

MARY ANN SMITH
Deputy Commissioner
DOUGLAS M. GOODING
Assistant Chief Counsel
MIRANDA LEKANDER (State Bar No. 210082)
Senior Counsel
Department of Business Oversight
1515 K Street, Suite 200
Sacramento, California 95814
Telephone: (916) 322-8730
Facsimile: (916) 455-6985

Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	NMLS No.: 207155
)	
THE COMMISSIONER)	ACCUSATION TO REVOKE
OF BUSINESS OVERSIGHT,)	MORTGAGE LOAN ORIGINATOR
)	LICENSE
Complainant,)	
)	
v.)	
)	
DIANA IRENE DIBBLE,)	
)	
Respondent.)	
)	

The Complainant, the Commissioner of Business Oversight (Commissioner) files this
Accusation to revoke the mortgage loan originator license of Diana Irene Dibble (Respondent). The
Commissioner is informed and believes and, based upon that information and belief, alleges and
charges as follows:

///
///
///
///

I.

STATEMENT OF FACTS

1. On July 31, 2010, the Commissioner approved Respondent's application for a mortgage loan originator license pursuant to the California Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50140 et seq.).

2. Respondent's application was submitted to the Commissioner on a Uniform Individual Mortgage License/ Registration & Consent Form (Form MU4) in the Nationwide Mortgage Licensing System and Registry (NMLS), as required by section 1422.6 of Title 10 of the California Code of Regulations.

2. Respondent reported through the National Mortgage Licensing System & Registry (NMLS) that during the period of August 2003 to October 2013, she was an employee of DHI Mortgage Company, LTD. (DHI) (NMLS No. 14622).

3. In or about November 2013, Respondent's sponsoring employer, DHI Mortgage Company, LTD. (DHI) (NMLS No. 14622), self-reported unlicensed residential mortgage loan activity to the Division of Mortgage Lending of the State of Nevada Department of Business and Industry (Nevada DBI). DHI discovered that the unlicensed activity had occurred at a DHI California branch office between December 2, 2012 and July 29, 2013, during a period when Respondent was employed as a manager at that location.

4. DHI's internal audit disclosed that Respondent had colluded with DHI branch employee to originate 15 residential mortgage loans in the Reno market using Respondent's Nevada mortgage agent license. DHI determined that because the branch employee did not have a Nevada mortgage agent license, Respondent used her position as branch manager to manipulate internal systems to redirect the payment of commissions of \$12,197.01 to the branch employee. DHI further found that six of the loans originated under Respondent's Nevada license contained violations of the Real Estate Settlement Procedures Act (RESPA) (12 U.S.C., § 2601 et seq.).

///

///

1 5. DHI's discovery of Respondent's misconduct resulted in DHI voluntarily making refunds to
2 affected Nevada borrowers in the sum of \$14,812.70, terminating the employment of the branch
3 employee, and securing the "voluntary resignation" of Respondent on October 31, 2013.

4 6. On or about May 20, 2014, Respondent filed with the Commissioner an amended application
5 on Form MU4 through the NMLS, seeking sponsorship with a new employer. Respondent reported
6 on Form MU4 that she was unemployed from October 2013 to April 2014.

7 7. On or about June 20, 2014, Respondent filed another amended application on Form MU4 with
8 the Commissioner to approve sponsorship with a new employer.

9 8. On July 29, 2014, the Nevada DBI issued to Respondent a Notice of Opportunity to Show
10 Compliance and Proposed Administrative Complaint concerning allegations of unlicensed conduct
11 warranting disciplinary action against Respondent's mortgage agent license.

12 9. On August 22, 2014, to resolve the regulatory concerns arising from Respondent's conduct,
13 DHI agreed to cease and desist from violating the laws governing the licensing and conduct of
14 mortgage agents and mortgage brokers doing business in the State of Nevada, exercise reasonable
15 supervision and control over its staff, implement and maintain a post-closing quality control program,
16 and pay to the Nevada DBI administrative fines and costs totaling \$10,290.00.

17 10. On October 4, 2014, Respondent filed with the Commissioner an application to annually
18 renew her mortgage loan originator license, which contained the following attestation:

19
20 I Diana Irene Dibble (207155), (Applicant) on this date Thursday,
21 October 4, 2014 swear (or affirm) that I executed this application on
22 my own behalf, and agree to and represent the following:

23 (1) That the information and statements contained herein, including
24 exhibits attached hereto, and other information filed herewith, all of
25 which are made a part of this application, are current, true, accurate and
26 complete and are made under the penalty of perjury, or un-sworn
27 falsification to authorities, or similar provisions as provided by law;

28 (2) To the extent any information previously submitted is not amended
and hereby, such information remains accurate and complete;

...

(4) To keep the information contained in this form current and to file
accurate supplementary information on a timely basis. . . .

11. On December 4, 2014, without admitting or denying the underlying allegations, Respondent entered into a Consent Order with the Nevada DBI, whereby she agreed to cease and desist from violating the laws governing the licensing and conduct of mortgage agents and mortgage brokers doing business in the State of Nevada and pay administrative fines and costs of \$7,980.00 (hereafter, "Nevada Order").

12. On April 2, 2015, Respondent filed a Form MU4 with the Commissioner but failed to update the Regulatory Action Disclosure section of her application to disclose the Nevada Order.

13. It was not until November 13, 2015 that Respondent first disclosed the Nevada Order to the Commissioner when she filed an application to annually renew her mortgage loan originator license. At that time, nearly one year after issuance of the Nevada Order, Respondent amended her application to answer "Yes" to Regulatory Action Disclosure Questions (K)(2) and (K)(4), which ask:

(K) Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever:

...

(2) found you to have been involved in a violation of a financial services-related business regulation(s) or statute(s)?

...

(4) entered an order against you in connection with a financial services-related activity?

14. Despite filing multiple amended applications through the NMLS after resigning from her employment with DHI in October 2013, Respondent has not changed her negative response to the Termination Disclosure question which asks:

(Q) Have you ever voluntarily resigned, been discharged, or permitted to resign after allegations were made that accused you of:

(1) violating statute(s), regulation(s), rule(s), or industry standards of conduct?

///

///

///

II.

DISCIPLINARY ACTION TAKEN BY ANOTHER STATE GROUNDS FOR DISCIPLINARY
ACTION BY THE COMMISSIONER

15. Financial Code section 50316, subdivision (a), provides in pertinent part:

(a) For any licensee, a disciplinary action taken by the State of California, another state, any agency of the federal government, or another country for any action substantially related to the activity regulated under this law may be a ground for disciplinary action by the commissioner. . . .

16. The Commissioner finds that the Nevada Order is a disciplinary action taken against Respondent by another state for an action substantially related to the residential mortgage loan originator activity regulated under the CRMLA, and such action constitutes grounds under Financial Code section 50316, subdivision (a), for disciplinary action by the Commissioner against Respondent.

III.

FAILURE TO TIMELY AMEND MORTGAGE LOAN ORIGINATOR APPLICATION

17. Title 10 of the California Code of Regulations, section 1950.122.9, subdivisions (a) and (c), require a licensee to file timely amendments to his or her application as follows:

(a) Each licensed residential mortgage lender, mortgage servicer, residential mortgage lender and servicer, or mortgage loan originator shall, upon any change in the information contained in its application for license (other than financial information contained therein), promptly file an amendment to such application setting forth the changed information.

. . .

(c) A mortgage loan originator shall file changed information contained in its Form MU4, and any exhibits thereto, through NMLS in accordance with its procedures for transmission to the Commissioner within twenty (20) days of changes to the information. Any change that cannot be submitted through NMLS shall be filed directly with the Commissioner. A mortgage loan originator may not renew his or her license under Section 1950.122.5.3 of Subchapter 11.5 of these rules until all changes to the information contained in his or her Form MU4 are filed with the Commissioner as provided in this section.

18. The Commissioner finds that the issuance of the Nevada Order on December 4, 2014 was a change in the information contained in Respondent's license application and that Respondent did not promptly file an amendment to the Regulatory Action Disclosure question on Form MU4 within 20

1 days but, instead, waited nearly one year to disclose the Nevada Order to the Commissioner, in
2 violation of section 1950.122.9.

3 19. The Commissioner is also of the opinion that Respondent's October 2013 termination by
4 DHI, after allegations were made that Respondent violated Nevada's mortgage lending laws, was a
5 change in the information contained the Termination Disclosure question of Respondent's license
6 application, which she also failed to timely amend, in violation of section 1950.122.9.

7 IV.

8 CHARACTER OF THE RESPONDENT

9 20. Financial Code section 50141, subdivision (a)(3) provides:

10
11 (a) The commissioner shall deny an application for a mortgage loan originator license unless
12 the commissioner makes at a minimum the following findings:

13 . . .

13 (3) The applicant has demonstrated such financial responsibility, character, and general fitness
14 as to command the confidence of the community and to warrant a determination that the
15 mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of
16 this division.

16 21. Due to the unlicensed activity leading to the issuance of the Nevada Order and Respondent's
17 failure to timely and accurately update the Regulatory Action and Termination Disclosure questions
18 of her application, the Commissioner finds that Respondent has failed to demonstrate the financial
19 responsibility, character, and general fitness as to command the confidence of the community and to
20 warrant a determination that she will operate honestly, fairly, and efficiently as a mortgage loan
21 originator within the purposes of the CRMLA, as required by Financial Code section 50141,
22 subdivision (a)(3).

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

V.

REVOCATION AUTHORITY

22. Financial Code section 50513 provides in pertinent part:

(a) The commissioner may do one or more of the following:

(1) Deny, suspend, revoke, condition, or decline to renew a mortgage loan originator license for a violation of this division, or any rules or regulations adopted thereunder.

(2) Deny, suspend, revoke, condition, or decline to renew a mortgage loan originator license if an applicant or licensee fails at any time to meet the requirements of Section 50141 or 50144, or withholds information or makes a material misstatement in an application for a license or license renewal.

VI.

CONCLUSION

23. The Commissioner finds that the Nevada Order is a disciplinary action taken against Respondent by another state for an action substantially related to the residential mortgage loan originator activity regulated under the CRMLA, and such action constitutes grounds under Financial Code section 50316, subdivision (a), for revoking Respondent's mortgage loan originator license.

24. Further, the Commissioner finds that Respondent presently fails to meet the minimum standards for issuance of a mortgage loan originator license under Financial Code section 50141, subdivision (a)(3), and has withheld information in an application for license renewal, and that such findings support revocation of the Respondent's mortgage loan originator license pursuant to Financial Code section 50513, subdivisions (a)(1) and (a)(2).

///

///

///

///

///

1 WHEREFORE IT IS PRAYED that the mortgage loan originator license issued to Diana
2 Irene Dibble be revoked.

3
4 DATED: March 16, 2016
5 Sacramento, California

JAN LYNN OWEN
Commissioner of Business Oversight

6
7 By _____
8 MIRANDA LEKANDER
9 Senior Counsel
10 Enforcement Division
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28